

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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BALD HILL BUILDERS, LLC,

Plaintiff,

v.

Case No.: CV 17-00107 (Spatt, J.)

2138 SCUTTLE HOLD ROAD REALTY,
LLC a/k/a 2138 Scuttle Hole Realty, LLC,

Defendant.

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BALD HILL BUILDERS, LLC'S ANSWER TO ANSWER AND COUNTERCLAIMS

Pursuant to Federal Rule of Civil Procedure 8 and 13, Plaintiff / Defendant-in-Counterclaim Bald Hill Builders, LLC ("Bald Hill") responds to *Defendant / Plaintiff-in-Counterclaim's Answer and Counterclaims* [Dkt No. 26] as follows:

1. As pleaded, *Defendant / Plaintiff-in-Counterclaim's Answer and Counterclaims* appears to make factual averments in the "Answer" and "Affirmative Defenses" sections of that pleading, which Defendant / Plaintiff-in-Counterclaim seems to later incorporate into the "Counterclaims" section of that pleading. As for the so-called Affirmative Defenses containing alleged facts, Bald Hill denies same (i.e., paragraphs 17-24).

2. As to Counterclaim paragraph 25, Bald Hill repeats and realleges its response "1" above with the same force and effect set forth at length herein.

3. As to Counterclaim paragraph 26, Bald Hill denies the allegations contained therein.

4. As to Counterclaim paragraph 27, Bald Hill denies the allegations contained therein.

5. As to Counterclaim paragraph 28, Bald Hill denies the allegations contained therein.

AFFIRMATIVE DEFENSES

As And For A First Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery on account of its unlawful conduct more fully set forth in the underlying Complaint [ECF #1].

As And For A Second Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery from Bald Hill Builders, LLC as the complained of conduct and related damages pleaded in the Counterclaims were not committed or caused by Bald Hill Builders, LLC, its agents or any third party for whom Bald Hill Builders, LLC is legally responsible.

As And For A Third Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery on account of its failure to plead its claims with particularity as required by Federal Rule of Civil Procedure 9.

As And For A Fourth Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery on account of its and / or its agent(s)' approval, waiver and / or release.

As And For A Fifth Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery on account of its and / or its agent(s)' accord and satisfaction.

As And For A Sixth Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery on account of its failure to comply with the subject Agreement terms and / or satisfy conditions precedent to making its counterclaims.

As And For A Seventh Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery as its counterclaims are frivolous.

As And For An Eighth Affirmative Defense

Defendant / Plaintiff-in-Counterclaim is not entitled to any recovery on account of its malicious prosecution.

As And For A Ninth Affirmative Defense

Bald Hill Builders, LLC reserves its right to plead further defenses realized via discovery.

WHEREFORE, Bald Hill Builders, LLC respectfully requests this Court to enter judgment in its favor on *Defendant / Plaintiff-in-Counterclaim's Answer and Counterclaims*, enter judgment in its favor as prayed for in the underlying Complaint [ECF #1], and award it its fees and costs and such other relief this Court deems just and proper.

Dated: October 17, 2017

Respectfully submitted,

/s/ Thomas T. Reith

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on October 17, 2017.

/s/ Laura Lee Mittelman

Laura Lee Mittelman